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C O N F I D E N T I A L SECTION 01 OF 02 BANGKOK 003673

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SUBJECT: THAI POLITICAL UPDATE JUNE 20: DUELING LAWSUITS

Classified By: Political Counselor Susan M. Sutton, reason 1.4 (b) (d)

11. (C) SUMMARY: The Attorney General returned the Thai Rak Thai dissolution case to the Election Commission on June 16, saying the EC was legally required to identify what section of law TRT was charged under, and what the legal penalty should be. Statements from the Atty-General office indicate that they are determined to avoid any procedural flaws in the case that could make the eventual Court decision vulnerable to appeal. The EC has until June 27 to return the case to the Atty-General with a recommendation. The Democrats have also testified before the EC on the TRT case against them for trying to "overthrow democracy." The EC is defending itself against charges of malfeasance and abuse of power, and will have its first court date on July 3. Some observers suggest that the threat of legal penalties against just about everyone may eventually lead to compromises that will allow the political system to go back to work as usual. However, we see no advocates for compromise yet. End summary.

TRT DISSOLUTION CASE

12. (C) The Attorney-General announced on June 16 that it would send the Thai Rak Thai (TRT) dissolution case back to the Election Commission. The EC forwarded the case to the Attorney-General without specifying what sections of law TRT had violated, and without specifying whether the party should be disbanded as a result of its actions. The EC was requested to respond by June 27. The Attorney-General reportedly is concerned that, if it sent the case forward to the Constitutional Court without the EC recommendation, it would weaken the case and leave any Court decision vulnerable to appeal. The EC has not yet stated whether it would meet the June 27 deadline.

13. (C) We spoke today to Dej-Udom Krairit, the president of the Thai Lawyers' Council about some of the legal questions surrounding this case. He fully supported the Attorney-General's decision, saying that the law clearly required the EC to make a recommendation. If the EC makes a recommendation, and the Attorney General reaches a different conclusion, the two would form a joint committee to resolve their different views. Ordinarily, he would expect this to take a month to six weeks, but it might be expedited in this case. Provided they eventually reached agreement that the case was serious enough to require court review, the Atty-General would forward it to the Constitutional Court. It would depend on the Court's schedule how quickly they would hear the case. He expected that the Court would expedite this case, in line with the King's instructions.

14. (C) The lawyer also commented on some other aspects of the case. TRT has complained that the EC subcommission which

prepared the damning -- and subsequently leaked -- report was biased, because it never called any TRT witness to get the party's defense. Dej-Udom said that this is normal practice for such a subcommission. Their job is to examine the case and see if there is cause for further investigation. TRT gets its chance to defend itself when the case goes to court, not in this initial investigation. Dej-Udom also said that he had some knowledge of the TRT dissolution case, and his impression was that it was very solid.

DEMOCRAT DISSOLUTION CASE

15. (C) The EC heard testimony late last week from senior Democrats, defending their party against the charge that they paid the microparties to frame TRT, and that their election boycott and call for an "Article 7" prime minister constituted attempts to "overthrow democracy." The EC has not given any indication when it would conclude this investigation. Since the EC testimony last week, there seems to be more concern that the case could hurt the Democrats, politically at least, if not legally.

EC MALFEASANCE CASE

16. (C) On June 15, the Constitutional Court also granted bail to the three remaining EC Commissioners, in connection with a lawsuit brought by the Democrat Party. They are charged with malfeasance and abuse of authority for allowing "constituency-hopping" by failed candidates in the later rounds of the April elections, and with failing to investigate the charges of TRT election fraud in the hiring of the microparties. The court set the date for the first hearing on July 3.

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COMMENT

17. (C) Several interlocutors have raised the possibility of some kind of compromise solution to the political crisis. Dej-Udom, asked whether the fate of Thaksin, TRT, etc. would be decided in the courts or by other means pointed out the "in our Thai history, we tend to decide things by compromise." Although the case against the Democrat party appears quite weak compared to the case against TRT, it may be a piece of the puzzle that eventually leads to a compromise solution, sparing both parties punishment in exchange for some other concessions that would get the political process back on track. However, no one yet appears to be in a compromising mood. End comment.

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